

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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AVIS MULLINS, <i>individually and on behalf of:</i>	:	
<i>all others similarly situated,</i>	:	
	:	
Plaintiff,	:	24-CV-00824 (VSB)
	:	
-against-	:	<b><u>ORDER</u></b>
	:	
NOVATECH, <i>a foreign company, et al.,</i>	:	
	:	
Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

On February 5, 2024, Plaintiff filed this action against Defendants. (Doc. 1.) Two days later, Plaintiff filed a First Amended Complaint. (Doc. 2.) Plaintiff, however, has yet to request a summons, let alone file an affidavit of service. Plaintiff has likewise failed to take any other action to prosecute this case. Accordingly, it is hereby:

ORDERED that, no later than May 15, 2024, Plaintiff shall submit a letter of no more than three (3) pages, supported by legal authority, demonstrating good cause as to why this case should not be dismissed pursuant to Federal Rule of Civil Procedure 4(m). “Good cause is generally found only in exceptional circumstances where the plaintiff’s failure to serve process in a timely manner was the result of circumstances beyond its control.” *E. Refractories Co. v. Forty Eight Insulations, Inc.*, 187 F.R.D. 503, 505 (S.D.N.Y. 1999) (internal quotation marks omitted). “District courts consider the diligence of plaintiff’s efforts to effect proper service and any prejudice suffered by the defendant as a consequence of the delay.” *Id.* (internal quotation marks omitted). “An attorney’s inadvertence, neglect, mistake or misplaced reliance does not constitute good cause.” *Howard v. Klynveld Peat Marwick Goerdeler*, 977 F.Supp. 654, 658 (S.D.N.Y.1997) (citing *McGregor v. United States*, 933 F.2d 156, 160 (2d Cir.1991), *aff’d*, 173

F.3d 844 (2d Cir.1999)). Plaintiff is warned that failure to submit a letter and to demonstrate good cause for failure to serve Defendants within ninety days after the complaint was filed will result in dismissal of this action.

SO ORDERED.

Dated: May 10, 2024  
New York, New York



VERNON S. BRODERICK  
United States District Judge